IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

Crl.MC.No. 4059 of 2006()

CC.584/2000 of JUDL.MAGISTRATE OF FIRST CLASS, KOLENCHERRY

.....

PETITIONER:

V.K.KUNJUMON, AGED 42 YEARS,
S/O.LATE KANNAN, VYPITHARA HOUSE,
PUTHUVYPU VILLAGE, KOCHI.

BY ADV. SMT.PRAMEELA.C.K.

RESPONDENTS:

STATION HOUSE OFFICER,
NARAKKAL POLICE STATION, NARAKKAL,
VYPPIN. REP. BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 4059 OF 2006

Dated this the 19th day of December, 2006

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the N.I. Act. The petitioner claims that he had appeared before the learned Magistrate and was enlarged on bail. But, thereafter, he could not appear before the learned Magistrate for reasons beyond his control. Consequently, a warrant of arrest was issued by the learned Magistrate. The petitioner now wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before

the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy// **P.S. To Judge**